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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,969	06/23/2003	N. Douglas Owens	MOD-065-01	8819
27268	7590	05/02/2006	EXAMINER	
BAKER & DANIELS LLP 300 NORTH MERIDIAN STREET SUITE 2700 INDIANAPOLIS, IN 46204			JACKSON, ANDRE L	
			ART UNIT	PAPER NUMBER
			3677	
DATE MAILED: 05/02/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/601,969	OWENS, N. DOUGLAS	
	Examiner	Art Unit	
	Andre' L. Jackson	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 21-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art figures 1-4 and in view of USPN 2,027,684 to Fageol.

Applicant's admitted prior art disclose a trolley (100) for use in a movable wall panel system (4) having multiple wall panels (2) supported by and movable along an overhead track (5) having X-intersections (7) and defining a bottom wall, the trolley comprising:

a trolley body; a hanging device (63) attached to the trolley body engageable to the movable wall panel; four trolley wheel assemblies (102) rotatably supported by the trolley body and engageable and movable within the overhead track on a plane coincident with the bottom wall of the track such that the four trolley wheels are adapted to travel atop the bottom wall of the track; two of the four trolley wheel assemblies being constructed to a first side of the trolley body, the other two of the trolley wheel assemblies being constructed to a second side of the trolley body; and two auxiliary wheels (101) rotatably supported on the trolley body such that the two auxiliary wheels are engageable and moveable within the overhead track, the two auxiliary wheels being constructed to the trolley body and positioned on opposite sides and opposite ends (non-collinear) of the trolley body relative to one another, such that the two auxiliary wheels are adapted to travel above the bottom wall of the track.

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However, applicant's prior art does not specifically disclose at least one of the auxiliary wheels being dimensioned smaller than any of the four trolley wheels as claimed. Fageol teaches a rail-road vehicle for use with an overhead conductor system having multiple conductor lines supported by and movable along a track or rail (28); a hanging device (33) is attached to the rail-road vehicle body engageable to the overhead conductor system; a four wheel assembly (5) rotatably supported by the rail-road vehicle body and engageable and movable within the track or rail; and multiple auxiliary wheels (27) rotatably supported on the rail-road vehicle body such that the auxiliary wheels are engageable and moveable within the track or rail, the auxiliary wheels being dimensioned smaller than any of the four wheel assembly and positioned on opposite sides and opposite ends of the rail-road vehicle body where radiuses of the track or rail and irregularities along the track or rail are navigated at high speeds with safety and without lean or unstableness. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the prior art trolley assembly to incorporate a change in dimension of at least one auxiliary wheel as taught by Fageol to provide an improved trolley assembly providing an increase in maneuverability and stability, where smaller auxiliary wheels affords a uniform load distribution, thus an overall smoother and safe trolley assembly.

As to claims 4, 5, 9, 10 and 24, the prior art figures illustrate wedged-shaped spacer plates (Fig. 1B) attach the auxiliary wheels to the trolley body.

Response to Applicant's Arguments

Applicant's arguments on pages 2-3 filed in the Amendment of February 16, 2006 have been fully considered but they are not persuasive. At the outset, the record is clear with respect to applicant's admitted prior art figures 1-4 and applicant's claimed invention that the main distinguishable characteristic between applicant's admitted prior art figures and applicant's claimed invention is a design consideration well known within the art. The Examiner does not rely singly on case law pertaining to a change in size of a structural element, instead the Examiner believes a more comprehensive grounds of rejection for the purpose of appeal may be better suited or reinforced by the addition of a teaching reference to Fageol. Fageol teaches a rail-road vehicle, which clearly illustrates a change in size of an equivalent structural element relevant to applicant's claimed invention as evidenced by the disclosure of Fageol.

Here, Fageol, represents a secondary reference (primary reference; applicant's admitted prior art figures 1-4) recognizing a prior art vehicle may include smaller dimensioned wheels or auxiliary wheels 27 relative to larger main axle wheels 5. This contrast in size is the first point and reason why the Examiner relies upon Fageol as a secondary teaching. The second and most important point the Examiner relies upon for the teachings of Fageol is an explanation of the auxiliary wheels performing or assisting in performing a specific function as an appropriate motivation to combine the rail-road vehicle of Fageol with the trolley of applicant's admitted prior art figures. Here, the Examiner broadly interprets both the rail-road vehicle and the trolley as plain vehicles outside of their intended use or environment, rather interpreted as similar vehicles with similar structure relevant to applicant's claims. For example, each vehicle includes a body and a main four-wheel assembly and further defines at least two auxiliary wheels.

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Since, applicant's admitted prior art figures is silent on the function of the auxiliary wheels in as much as shown in the figures 1-4, Fageol fills in this void by teaching that the auxiliary wheels impart steering and guiding influence. Subsequently, a specific function of the auxiliary wheels, which are dimensioned smaller than any of the main four-wheel assembly, is to negate unstableness and assist to maintain sufficient maneuverability at high speeds of the rail-road vehicle. It is this specific function of the auxiliary wheels of Fageol, the Examiner relies upon in translating a change in size to the auxiliary wheels of the trolley of applicant's admitted prior art. Thus, a translation of smaller dimensioned auxiliary wheels on the trolley of applicant's admitted prior art may too impart steering and guiding influence in so much as the auxiliary wheels of Fageol operate. Therefore, the Examiner believes it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the trolley to incorporate a change in dimension of at least one auxiliary wheel as taught by Fageol to provide an enhanced trolley affording an increase in maneuverability and stability, where a smaller auxiliary wheel(s) provides a uniform load distribution, thus an overall smooth and safe trolley.

For the forgoing reasoning stated above, the Examiner believes the broad interpretation of the combination of applicant's admitted prior art and the Fageol reference is reasonable with proper motivation as explained in detail above. Consequently, claims 1-12 and 21-24 remain unpatentable over the prior art made of record.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067. The examiner can normally be reached on Mon. - Fri. (10 am - 6:30 pm).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson
Patent Examiner
AU 3677

ALJ


ROBERT J. SANDY
PRIMARY EXAMINER